



THE PROBLEMS OF VALUE ADDED TAX ON SALE OF
SECONDHAND CARS IN THAILAND

BY

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AN INDEPENDENT RESEARCH PAPER SUBMITTED IN
PARTIAL FULFILLMENT OF THE REQUIREMENTS
FOR THE DEGREE OF MASTER OF LAWS
(TAXATION LAW)

GRADUATE SCHOOL OF LAW
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The seal of Assumption University of Thailand is a circular emblem. It features a central shield divided into four quadrants: top-left (blue with a white lily and 'A M'), top-right (white with a blue scale of justice), bottom-left (white with a blue star and 'D'), and bottom-right (red with a white cross and 'S'). The shield is flanked by golden laurel branches. Below the shield is a banner with the text 'BROTHERS of LABOR' on the left and 'S1 GABRIEL VINCIT' on the right. The entire seal is surrounded by a circular border containing the text 'ASSUMPTION UNIVERSITY OF THAILAND' at the top and 'มหาวิทยาลัยอัสสัมชัญ' at the bottom.

AN INDEPENDENT STUDY SUBMITTED IN PARTIAL
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Author : Ms. Siriya Rattarungsi
Major : Taxation Law (English Program)
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Faculty of Law, Assumption University approves this Independent Study as the partial fulfillment of the requirement for the Degree of Master of Laws.




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ABSTRACT

The overall objective of this research is to focus on the problems of value added tax on sale of secondhand cars in Thailand. The study reveals the forms of the methods for taxed Value Added Tax in Thailand, United Kingdom and Singapore, the general structures of Value Added Tax or VAT (Thailand and the United Kingdom) and Goods and Services Tax or GST (Singapore).

From the study on such issue, it found that the important problems of Value Added Tax on sale of secondhand cars in Thailand, when compared between the methods for taxed VAT of the United Kingdom and Singapore, are lacking of the special schemes to account for VAT on secondhand cars and also the method for issuing special tax invoice.

From the analysis of the problems, the author suggested that all of these problems come from the legal loopholes in the Thai Revenue Code. The problems of the matter of law and interpretation occur because Thai tax law does not have special schemes to govern these sale of secondhand cars and also specific definition of the word “secondhand car” in the Revenue Code.

From the study, the problem for taxed VAT on secondhand cars in Thailand requires the Thai government to consider and solve the provisions’ problems to account for VAT on sale of secondhand car businesses. Therefore, Thailand should enact Royal Decree and Director-General Notifications to explain about the special schemes and

specific regime to issue tax invoice on sale of secondhand cars. Moreover, these Royal Decree and Director-General Notifications will govern and specify liability of paying VAT to the Revenue Department.



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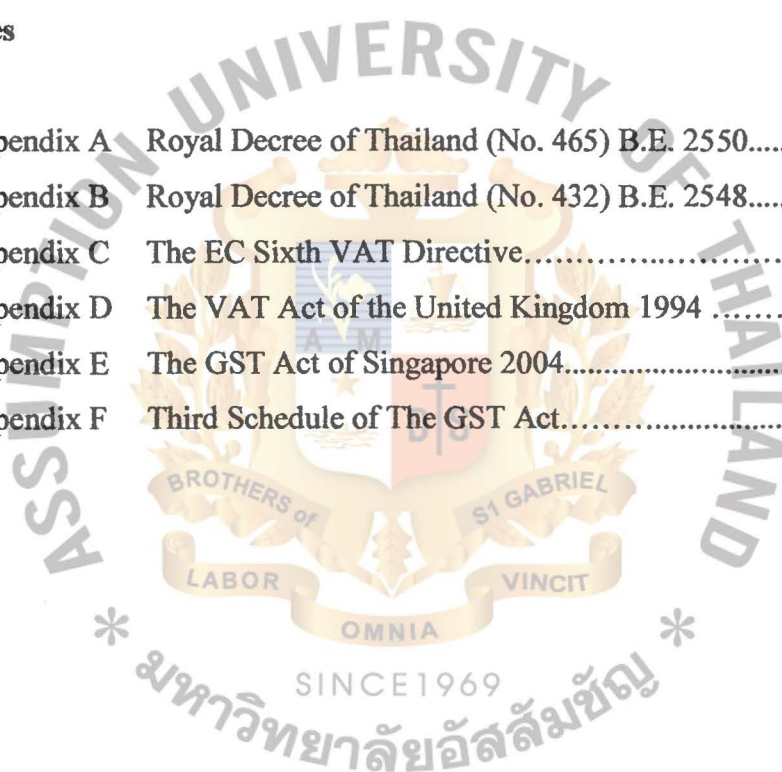


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Chapter 1

Introduction

1.1 Background and General Statement of the Problems

There are widespread tax avoidance problems in Thailand due to legal loopholes. These loopholes arise from wrong interpretation, unclear interpretation, as well as, unclear definitions which do not cover all kinds of businesses that are required to pay Value Added Tax (VAT).

Value-Added taxation is a method of imposing an “*ad valorem*”¹ tax on final consumer spending within the domestic economy. The whole of the sales value of consumer goods and services, whether imported or produced at home, is taxed by installments as the goods pass along the production and distribution chain involving successive transactions between businesses. Although the tax is levied at all stages, their total value is subject to tax once and once only. Under the “invoice” system, each business pays the tax as a percentage (the Value Added Tax (VAT) rate) of its sales during the proceeding tax period (say a month), but less a credit for the VAT invoiced to it over that period by its own suppliers. There are of course no tax invoice credits for the final consumer, for that matter, for any tax-exempt business purchaser (like the farmer, say, if food and farming activities are treated as tax-exempt). For these purchases, there is no recovery of pre-paid tax: the buck stops there.

Value Added Tax (VAT) plays an important role in financing the government abundantly because VAT from every transaction earns huge amount and is widespread when compared with the other kind of taxes. In the past, Thailand hardly realized the importance of VAT but at present, VAT plays an important part for development the country due to easy collection based on fixed rate of Value Added Tax in Thailand (the present rate is 7%).

¹ Bernard Crick and William A. Robson, Taxation Policy (Harmondsworth: Penguin publishers, 1973), p. 183.

However, the description of law subjected to VAT has opened the loopholes for seller and buyer to avoid paying tax. In this research paper, Chapter4 will analyze about the problem of VAT collecting on sale of secondhand cars businesses in Thailand. Most of these businesses use the loopholes to avoid VAT according to the high value of cars that can value added to the price of them. Value of VAT will increase in accordance with the price of cars so the business owner, who bought cars from sellers in the first transaction and sold secondhand cars to their customers, do not want to pay VAT to the Revenue Department. They chose the way to avoid this amount of tax by using signing blank endorsement for transferring rights and ownership to the next owner, who bought the cars (customers) from them, as the confirmation for selling and buying cars. Surely, they are not issued tax invoice as evidence that has to submit to the Revenue Department for paying VAT as well.

The problem that found in the matter of law is the law cannot cover with the sale and purchase of secondhand goods (in this research I will focus on secondhand car only) so for VAT account has to use ordinary account for taxed value added tax on sale and purchase goods, according to the Thai Revenue Code, to adapt for the case. For accounting Value added tax, in general, will account on full price of the car and it caused high price that came from value added.

For the interpretation, the law does not issued specific meaning in the word of "Secondhand Car" to adapt with VAT system but use only in the general meaning of the word "Goods" in Section 77/1 (9), which provided that the word "*Goods*" means *corporeal or incorporeal objects susceptible of having value and of being appropriated, whether for sale, use or for any purpose, and includes everything imported*, to adapt and use with the sale of secondhand cars instead.

The Revenue Department realized about the problem that had happened and Revenue Department tries to find the solution for closing the legal loopholes and curing lost Government's income.

1.2 Hypothesis of the Research

Currently, Thai tax law can not prevent the tax avoidance completely, especially, from the group of secondhand cars dealers or Secondhand Car businesses. It is essential to interpret existing Thailand Revenue Code in the section that involved with taxed for Value Added Tax and understand the meaning of the involved words in Thai Revenue Code that could be apply for this case, understand its application and purpose additions in order to address the new problems and situations which have occurred through today's spread on sale of secondhand cars.

1.3 Objectives of the Research

1. To study the system of Value Added Tax avoidance on sale of secondhand car businesses.
2. To analyze the concept and legal provision of VAT collecting system between Thailand, the United Kingdom and also Singapore.
3. To study the legal problems in term of collecting VAT on sale of secondhand cars when compared between Thai law and the foreign laws.
4. To find a solution to the problems that existed, in order to know the suitable roles for finding the solution properly.

1.4 Research Methodology

This research paper will be analyzed and researched utilizing documentary research i.e. Thai Revenue Code (in the part of "Value Added Tax"), Value Added Tax provision of United Kingdom and Goods and Service Tax provisions of Singapore including text books, applicable thesis, documents and electronic information regarding value added tax relating to the above documents.

1.5 Scope of Research

This research paper encompasses the study of the system for taxed on VAT according to Thai Revenue Code. This research focuses on the sale of secondhand car as the full time business by analyzing and comparing the problem of tax avoidance in Thailand and the solution of United Kingdom provisions and Singapore Provisions.

1.6 Expectation of the Research

1. To know the characteristics and comprehend the working system of tax avoidance on sale of secondhand car businesses in Thailand.
2. To know the concepts and legal provisions of VAT collecting system between Thailand, the United Kingdom and Singapore.
3. To know the legal opinion and interpretation in different laws including foreign legislation.
4. To identify the legal problems and establish solutions for such problems.
5. To improve and modify the law concerning on the tax collecting on the sale of secondhand cars businesses in field of domestic law.

Chapter 2

General Study about the VAT on Sale of Secondhand Cars in Thailand

2.1 The Definition of Word “Value Added Tax” (VAT)

Value Added Tax is a government tax charged on certain transactions, generally, applied at each point of exchange of goods or services from primary production to final consumption². It is levied on the difference between the sale prices of the goods or services (outputs) to which the tax is applied and the cost of goods and services (inputs) bought in for use in its production³.

Value Added Tax is an indirect tax on consumption that is assessed on the increased value of goods at each point in the chain of production and distribution, from the raw material stage to final consumption. The tax on processors or merchants is levied on the amount by which they increase the value of the items they purchase and resell. Value Added Tax (VAT) is a sales levied on the sale of goods and services. In some countries, including Singapore, Australia, New Zealand and Canada, this tax is known as “goods and services tax” or GST⁴.

Value Added Tax (VAT), or goods and services tax (GST), is tax on exchanges. It is levied on the added value that results from each exchange. It differs from a sales tax because a sales tax is levied on the total value of the exchange. For this reason, a VAT is neutral with respect to the number of passages that there are between the producer and the final consumer. A VAT is an indirect tax, in that the tax is collected from someone other than the person who actually bears the cost of the tax (namely the seller rather than the consumer). To avoid double taxation on final consumption,

² Web-Conveyancing Limited, VAT, in http://www.web-Conveyancing.co.uk/jargon_buster.asp, access date June 16, 2007.

³ Bannock Graham et al, The Penguin Dictionary of Economics, in <http://poli.haifa.ac.il/~levi/res/dicpe.html>, access date June 16, 2007.

⁴ Wikipedia, Value Added Tax, in <http://en.wikipedia.org/wiki/VAT>, access date June 16, 2007.

exports (which by definition, are consumed abroad) are usually not subject to VAT and VAT charged under such circumstances is usually refundable.

The VAT was invented by French economist in 1954. *Maurice Lauré*, joint director of the French tax authority, the *Direction générale des impôts, as taxe sur la valeur ajoutée* was first to introduce VAT with effect from 10 April 1954 for large businesses, and extended over time to all business sectors. In French, it is the most important source of state finance, accounting for approximately 45% of state revenues.

Person end-consumers of products, consumers and services cannot recover VAT on purchases, but businesses are able to recover VAT on the materials and services that they buy to make further supplies or services directly or indirectly sold to end-users. In this way, the total tax levied at each stage in the economic chain of supply is a constant fraction of the value added by a business to its products, and most of the cost of collecting the tax is borne by business, rather than by the state. VAT was invented because very high sales taxes and tariffs encourage cheating and smuggling. It has been criticized on the grounds that it is a regressive tax.

2.2 The Definition of Word “Secondhand Car”

A “Used Car”, also known as a Pre-owned vehicle and secondhand car, is a vehicle that has one or more owners. Used cars are sold through a variety of outlets, which include franchise and independent dealers, rental car companies, leasing companies, and used car superstores. Some car retailers offer “no-haggle prices,” and “certified” used cars, and extended service plans or warranties. Individuals can also sell and purchase used car through resources, such as newspaper and online classifieds⁵.

⁵ Wikipedia, Used Car, in http://en.wikipedia.org/wiki/Used_car, access date June 20, 2007.

2.3 The Structure of the Value Added Tax (VAT) in Thailand

On January 1, 1992, the Thai government replaced the business tax by a Consumption-type Value Added Tax (CT-VAT). In comparison with other types of VAT (i.e. Gross National Product VAT and Income-type VAT), the Consumption-type Value Added Tax or CT-VAT is arguably the most preferred VAT system. This can be verified by the fact that 38 from 41 countries employing the VAT system are using the CT-VAT. The advantages of the CT-VAT over other VAT systems maybe summed up as follows:

First, the Gross National Product or GNP-type VAT distorts and obstructs investment, and is difficult to implement. Moreover, no country has applied this type of VAT. Second, as for the Income-type VAT, its tax base is similar to that of the income tax. Thus, the imposition of this tax is nothing else but imposing income tax twice (Only two countries have employed the Income Base VAT; Peru and Argentina). Third, the CT-VAT is not only easy to implement, but also increases investment incentive. Fourth, it is neutral on international trade. Finally, since it contains a motive to avoid tax-evasion, the CT-VAT can be used as a tool to reduce corruption in administration. Therefore, this type of VAT is possibly the most appropriate tax system for the Thai economy⁶.

Normally, to calculate Tax for Value Added Tax, there are three different methods can be used to calculate the tax liability in the VAT system, namely addition, subtraction and credit methods. The tax base in the addition method can be calculated by adding up all the factor payments made by the firm such as wage, net interests, rents and what is earned as profits. The tax liabilities are obtained through multiplying the tax rate by the tax base. Since this method requires adding net profits to other factor payments, it is appropriate to apply this method to the Income-type VAT rather

⁶ Somchai Harnhirun, "Substituting Value-Added Tax for Business Tax in Thailand a General Equilibrium Analysis," (Doctor Degree's Thesis, Department of Library and Information Center, NIDA, 1994), pp. 42-43.

than to the Consumption-type VAT. In the subtraction method, the tax due from each firm is reduced by the tax paid by the firm on all intermediate inputs purchased from other firms. The calculation of tax liabilities can be done by subtracting the purchases from other firms from sales revenues and then applying the appropriate tax rate. Under the credit method, taxes are levied on total sales, with credit given on taxes paid on the purchase of intermediate products. This differs from the subtraction method where taxes are levied on the difference between total sales of products and its cost of production. To calculate the tax liabilities using the credit method, the tax payer can simply multiply the tax rate by the output price to obtain the output tax and then subtract the payment shown in the invoices of the raw material purchased. In administering the tax, this method is known as the invoice method. This is because, in paying tax, the firm only requires to maintain invoices on sales and purchases for each tax payment period (usually monthly). The tax liability is determined simply by applying the tax rate to the total sales invoices and then by deducting the amount of VAT already paid on intermediate purchases as indicated on the purchase invoices where the tax is usually itemized separately.

The credit method is therefore considered to be the most preferable type on account of its simplicity. That is that the reason why the credit method is commonly used in many countries whereas no country has yet employed the subtraction method⁷.

2.4 The Sales System of Secondhand Cars in Thailand

Cars are important in human life to respond to a hurry life, facilitate jobs and human's opinions have changed because they think cars are fashionable. Moreover, the competition of each brand has intensified because each brand wants to be top brand in the car market. Therefore, each distributor in Thailand proposes special campaigns in order to attract customers to buy a new car. Thus, the need to buy cars increases.

⁷ J Whalley and D Fretz, The Economics of Goods and Services Tax (Toronto: Canadian Tax Foundation Publishers, 1990), p. 86.

When people decide to buy a new car, some sell their old car to secondhand car market due to many reasons such as not wanting their old car or in need of money for down payment of their new car. As cars can be easily sold into the secondhand market and demand for secondhand cars have increased, the secondhand car business has grown rapidly and huge amount of money circulates in this market.

Generally, the secondhand car business earns a lot of income according to the car's price. Most cars sold are approximately 80,000 Baht up to a million Baht and beyond. The Revenue Code can levy Value Added Tax on these businesses and earn huge amount of money for Thai government as well.

The method of secondhand car business is quite simple. The dealer pays the agreed price to the seller. In return, the seller signs his name on a blank endorsement and hands it to the dealer. When a customer buys the car, the dealer will give him the blank endorsement to sign his name. The ownership will then be transferred to the buyer. However, to register the change of ownership, the car has to be registered at the Department of Land Transport.

2.5 Legal Provisions Relating to Value Added Tax Collection on Sale of Goods in Thailand

Input tax means value added tax that the business operators paid to the person who sell goods or provide services as VAT register, when they buy or pay for services for their own businesses. The rates of Value Added Tax for general sale of goods are:

Rate of 10% but Royal Decree No.465 B.E. 2550⁸ decreased the rate to 7%. Pursuant to Section 79⁹, Section 85/1(1)¹⁰ and Royal Decree No. 432 B.E.2548¹¹, businesses

⁸ Appendix A.

⁹ Section 79 Subject to Section 79/1, the tax base for sale of goods or provisions of services means total value received or receivable by a supplier from such sales or provisions inclusive of excise tax as defined in Section 77/1(19), if any

that generate an income more than 1,800,000 per year, must be registered as VAT register. However, those who earn less than 1,800,000 can voluntarily register as VAT register to deduct input tax.

Value Added Tax is fair and prevents double taxation. Thus, Value Added Tax is useful for the economy because it generates income to the government more than other taxes¹². Problems arise from practice and checking system of the government, which should have great efficiency, to protect falsification of tax invoice.

¹⁰ Section 85/1(1) A supplier with the value of the tax base of his business exceeds that of a small business fixed by a Royal Decree issued under Section 81/1 shall file an application within thirty days.

¹¹ Appendix B.

¹² The Report of Collecting Tax in Fiscal Year, 2005-2007, Chomporn Province

The Report of Collecting Tax in Fiscal Year, 2005

Unit : Million

October	10,514	3,483	17,328	3,673	1,757	0.091	0.003	37,049
November	11,185	3,215	19,098	2,45	2,176	0.088	0.003	38,224
December	11,036	3,519	17,183	2,816	2,267	0.068	0.001	37,89
January	12,623	2,596	18,914	2,412	1,918	0.059	0.004	38,326
February	9,87	2,605	16,969	2,304	2,239	0.047	0	34,026
March	34,844	2,775	15,479	3,077	2,233	0.071	0.014	58,493
April	13,29	3,028	13,743	2,752	2,2	0.076	0	35,089
May	18,509	32,433	12,656	3,112	1,955	0.163	0.017	68,845
June	17,206	5,6	15,369	4,332	3,054	0.098	0.004	45,063
July	12,96	5,134	13,887	4,004	2,104	0.057	0	38,146
August	12,351	24,238	15,183	2,469	1,983	0.054	0.003	56,223
September	17,865	4,357	18,405	2,809	2,629	0.062	0	46,127
Total	183,162	121,818	194,224	26,482	26,697	0.834	0.049	524,411

The Report of Collecting Tax in Fiscal Year, 2006

Unit : Million

October	12,887	4,379	16,241	2,579	2,103	0.085	0	38,584
November	15,474	3,873	16,708	3,029	2,087	0.067	0.001	41,339
December	14,268	4,323	18,574	7,017	2,106	0.047	0.003	47,338
January	13,423	3,795	21,895	2,855	2,884	0.092	0	44,52
February	14,889	4,467	25,429	2,357	2,223	0.051	0.003	49,528
March	39,359	3,904	21,816	3,108	2,407	0.059	0	79,353
April	14,999	3,771	21,388	2,876	2,02	0.118	0.007	45,179
May	18,15	23,474	22,053	2,813	1,718	0.126	0.003	78,337
June	15,822	6,385	23,395	3,793	2,254	0.072	0	51,734
July	18,728	6,004	25,744	4,211	1,832	0.038	0.005	56,562
August	15,62	29,389	24,879	2,817	2,438	0.073	0.003	78,219
September	22,271	5,287	22,896	4,965	2,66	0.062	0	87,352
Total	216,109	198,882	262,220	41,821	26,224	0.804	0.025	656,045

The Report of Collecting Tax in Fiscal Year, 2007

Unit : Million

October	19,448	5,779	26,616	3,456	2,135	0.13	0	57,984
November	17,142	5,504	26,987	3,101	2,41	0.093	0.002	55,239
December	15,89	5,134	27,882	3,079	1,893	0.07	0	53,897
January	17,874	5,831	26,719	2,805	2,5	0.048	0.002	53,879
February	19,1	4,521	27,672	2,845	2,785	0.06	0	56,984
March	65,314	4,628	23,233	2,971	2,221	0.079	0.003	89,289
April	24,842	4,993	26,272	2,094	2,082	0.106	0	60,099
May	31,204	32,609	26,212	4,344	2,472	0.1	0.002	87,147
June	19,457	6,612	28,727	4,03	2,488	0.233	0	61,725
July	17,517	5,805	27,225	3,474	2,229	0.084	0.002	56,413
August	17,946	30,229	26,253	3,47	2,894	0.072	0.012	61,725
Total	253,794	110,785	294,518	34,770	26,315	1.053	0.023	703,981

2.5.1 Imposition of Value Added Tax and Person Liable to Tax

Section 77/2 of the Revenue Code divides businesses that are required to pay VAT into the following groups:

1. Sale of goods in the Kingdom only by supplier.
2. Provision of services by a service provider.
3. Import of goods by an importer.

Pursuant to Section 77/1(9) of the Revenue Code, provides that

“*Goods*” means corporeal or incorporeal objects susceptible of having value and of being appropriates, whether for sale, use or for any purpose, and includes everything import.

The Meaning of “*Goods*” in the system of VAT is widely explanation so the problem for consideration about the meaning of the word “*Goods*” should consider follow by the Value Added Tax law provided.

The meaning of word “*Sale*” of goods according to Section 77/1(8) means transfer goods to someone else whether or not in any form of transferring or get paid.

2.5.2 The Businesses that are not required to Pay VAT under the Tax Law

The businesses that are not required to pay VAT are as follow:

1. All business those are subject to specific business tax under Section 91/2¹³, except in the case under Section 91/4 of the Revenue Code.

¹³ Section 91/2 Subject to Section 91/4, the following businesses carried on Thailand shall be subject to specific business tax under the provisions of this Chapter:
 (1) Banking under the law governing commercial banking or any other specific law;

2. The businesses that exempt from specific business tax under Section 91/3¹⁴ of the Revenue Code.
3. The business that are not in the characteristic of Sale of goods or provide of services only in the Kingdom of Thailand under Section 77/2¹⁵ of the Revenue Code.

- (2) Undertaking of finance business, securities business and credit fancier business;
- (3) Life insurance under the law governing life insurance; (R.C.A.A(no.33) B.E.2541 s.4)
- (4) Pawn broking under the law governing pawnshops;
- (5) Business with regular transactions similar to commercial banking, such as extending loans, furnishing guarantees, exchange of currencies, issuance, purchase or sale of negotiable instruments or transfer of money abroad by any means;
- (6) Sale of immovable properties in a commercial manner or for profits, irrespective of the manner in which a property is acquires, only if following the rule procedures and conditions prescribed by a Royal Decree;
- (7) Sale of securities under the law governing securities exchange of Thailand in a stock exchange;
- (8) Any other business specified by a Royal Decree.

¹⁴ Section 91/3 The following businesses shall be exempt from specific business tax:

- (1) Business of Bank of Thailand, the Government Savings Bank, the Bank for Housing Welfare, the Bank for Agriculture and Agricultural Co-operatives;
- (2) Business of the Industrial Financial Corporation of Thailand;
- (3) Business of a saving co- operative, only in respect of loans extended to its members or to another savings co-operative;
- (4) Business of a provident fund under the law governing provident funds;
- (5) Business of the National Housing Authority, only in respect of sale of an immovable property or letting it out on hire-purchase;
- (6) Business of pawn broking of a ministry, sub-ministry, department or a local government authority;
- (7) Any other business under Section 91/2 as specified by a Royal Decree.

¹⁵ Section 77/2 Value added tax under the provisions of this Chapter shall be charged on the following transactions that are performed in Thailand:

- (1) Sale of goods or provision of a service by a supplier.
- (2) Import of goods by an importer.

Provision of a service in Thailand means performing services in Thailand regardless of whether the use of such service is made in a foreign country or in Thailand.

4. The activities, which are not in the characteristic of Sale of goods or provide of services, in case of the business operators , who gave benefit from sale of goods and provide of services ,according to the Revenue Code, are no in the scope for paying VAT. (Except under Section 77/1 (8) (g) ¹⁶and Section 77/1 (10) (a) (b) and (c) ¹⁷ of the Revenue Code)

2.5.3 Persons Liable to pay Tax

Persons liable to pay tax can be divided as follows:

1. a supplier
2. an importer
3. a person that the law provided responsibility for paying VAT.

2.5.4 Suppliers

1. Supplier means a person who sells goods or provides a commercial or professional service, whether in doing so he receives any benefit or consideration, and whether or not he is recorded for value added tax registration. (Under Section 77/1 (5))

A service which is performed in a foreign country and is made use of in Thailand shall be treated as provided in Thailand.

¹⁶ Section 77/1 (8) “Sale” means disposition, distribution or transfer of goods whether or not for a benefit or consideration and shall include-

- (g) Any other event as prescribed by a Ministerial Regulation.

¹⁷ Section 77/1 (10) “Service” means any activity performed with a view to benefits of value other than sale of goods, and includes making use of the supplier’s own service by any means, but not including-

- (a) Making use of services of goods directly for his own business following the rules, procedures and conditions prescribed by the Director-General;
- (b) Utilization of money for seeking benefits by way of depositing with banks or purchasing bonds or securities;
- (c) Any activities designated by the Director-General with the approval of the Minister.

From the above mentioned definition, “supplier”, can be divided as follows:

- (1) *“Person” means a natural person, a non-juristic body of persons, or a juristic person. (Section 77/1(1))*
- (2) *“Natural person” includes an estate. (Section 77/1(2))*
- (3) *“Non-juristic body of persons” means an ordinary partnership, a non-juristic fund or foundation, and includes a non-juristic work or business unit operated by two or more natural persons. (Section 77/1(3))*
- (4) *“Juristic person” means a juristic company or partnership under Section 39, a governmental organization under Section 2, a co-operative and any other entity designated by law as a juristic person. (Section 77/1(4))*

2. Sale of goods for business or professional services regardless of any benefit or considerations is also considered. This point is not explained in the Revenue Code but is considered based on behaviors of the suppliers, regardless of actual sales of goods for business or professional services. Some cases are considered as sales of goods but are not in the scope of sale for business or profession. For example, Mr. A, who works as employee, sells his car to Mr. B; this sale is not in the scope of sale for business or profession. Therefore, Mr. A is not a supplier.

3. Becoming a supplier

Anyone can be considered as a supplier if he is in the scope of 1 and 2, as mentioned above, whether he has registered for VAT or not. When he becomes a supplier and wants to have rights as VAT register, he must register himself as VAT register with the Revenue Department. Status of suppliers registered for VAT completely with the Revenue Department will be changed

to VAT register suppliers. These suppliers have rights and duties as prescribed by VAT laws.

2.6 Valued Added Tax on Sale of Secondhand Cars in Thailand

As mentioned in clause 2.5, sales of secondhand cars in the Kingdom of Thailand only by supplier are subject to VAT under Section 77/2(1).

Sales of secondhand cars mentioned in this research are within the scope of the definition for the word “sale”, according to Section 77/1(8). Therefore, this sale of secondhand car is subject to VAT.

Section 77/1(9) defines “goods” for sale. This research will consider whether “Secondhand goods” is within the scope of such definition or not. Definition of “goods” in the Revenue Code covers all kind of goods but the Code does not contain any specific definition of the word “secondhand car”.

Moreover, secondhand car business is not specific business or other kinds of businesses that are not within the scope for paying VAT. Thus, sale of secondhand car is in the VAT system.

“Supplier”, according to Section 77/1 (5) of the Revenue Code, means a person who sells goods or provides a commercial or professional service, whether in doing so he receives any benefit or consideration, and whether or not he is recorded for value added tax registration. Therefore, business operators of secondhand car businesses are the suppliers liable to tax under Section 82 of the Revenue Code and must submit VAT to the Revenue Department as well.

Chapter 3

General Study about the VAT on Sale of Secondhand Cars in the United Kingdom and Singapore

3.1 The Structure of United Kingdom VAT

The Value Added Tax (VAT) was introduced in the United Kingdom in 1973 and now raises around one fifth of all government tax revenue¹⁹. The major force behind the introduction of a VAT in the United Kingdom was the growing support in the late 1960s for the United Kingdom to join the European Community (EC). The push towards the introduction of a VAT in the United Kingdom gained momentum with the election of a Conservative government in June 1970. Not only did its manifesto support joining the EC, it suggested that replacing the Purchase Tax and the Selective Employment Tax (SET) with a VAT should be closely examined. At that time, the Purchase Tax was a whole sale stage tax on the sales of goods between a registered trader and an unregistered customer, and was levied at multiple rates and on a narrow base which excluded many goods and all services.

In contrast, the SET was a per capita tax on all employees, being collected as a flat rate surcharge on social security contributions which were, at that time, levied on a similar basis. The SET paid by employers was then refunded to selected employers, including local authorities and those engaged in manufacturing and farming. No refunds were available to distribution or retailing (unless the business qualified as a manufacturer) or to the service sector. The purpose of the SET was to divert labor from service industries (which did not export) to manufacturing and farming (which did export), not as a means to indirectly tax services (which were exempt under the Purchase Tax). The demise of the Purchase Tax and SET was assured when the Conservative government released a report in March 1971 which concluded in favour of these taxes being replaced by a VAT. The VAT has now been in force in the UK

¹⁹ Neil Warren, *The UK Experience with VAT*, in <http://epublications.bond.edu.au/cgi/viewcontent.cgi?article=1035&content=rlj>, access date July 10, 2007.

for nearly two decades. Most of the important changes made to the base and rates of the VAT occurred in the first decade. This was partly due to the fine-tuning of the tax, but mostly due to political considerations.

Upon the formation of the Common Market in Europe (now the European Union) it was decided that one requirement of joining was the imposition of a form of VAT. In 1972 the Conservative government passed legislation to bring VAT into effect from 1 April 1973. In 1973, the UK joined the European Union²⁰ and replaced the existing Sales Tax with VAT.

In principle VAT is a tax on goods and services consumed in the home market; the tax is complicated because it is collected at every stage of production and distribution. Value added is the contribution of a particular firm to the value of the product. It can be calculated either directly by taking the value of a firm's wage and salaries bill plus profits, or indirectly by subtracting the costs of materials and services (such as electricity and transport) that the firm has bought in from the value of the products it sells. Value added can be obtained by an accounting or an invoicing method. Under the "invoice system" of VAT, which applies in the United Kingdom and throughout the EEC, value added is never actually calculated, but only the tax due from the taxpaying business to its suppliers and to it from its customers. A business charges VAT on the output it sells, pays tax on the materials and services it buys, and hands over to the revenue authorities the difference between output tax on the materials and services it buys, and hands over to the revenue authorities the difference between output tax and input tax in each accounting period. VAT is charged on imports when they enter a country.²¹

²⁰ The European Union currently has 27 member states: Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom

²¹ C. T. Sandford., M.R. Godwin., P.J.W. Hardwich., M.I. Butterworth, Costs and Benefits of VAT (London : Heinemann Educational Books Publishers, 2000), p.5.

3.2 The Method for Taxed VAT on Secondhand Car in United Kingdom

3.2.1 Special Schemes for the Sale of Secondhand Goods²².

Secondhand Goods

There is no overall exemption from VAT for goods merely because they are being sold secondhand or in a used condition. Neither is a person exempt from VAT registration because he deals in secondhand goods. Thus all sales of used goods, equipment and machinery are subject to VAT at the normal rate. A person opening up a secondhand shop will have to register for VAT if his total turnover exceeds, or is expected to exceed, the current limit for VAT registration. There are some ways of reducing total liability for VAT which are discussed at the end of this chapter.

However, certain used goods may be sold under special schemes devised by Customs and Excise which provide for VAT to be calculated on a reduced value. To be able to use these schemes, the suppliers must be prepared to keep the very detailed records which are required by Customs and Excise. The goods which can be sold under these schemes are:

1. Used motor cars (not vans or commercial vehicles)²³
2. Antiques, secondhand works of art and scientific collections.
3. Secondhand caravans and motor cycles.
4. Secondhand boats and outboard motors.
5. Used aircraft.
6. Secondhand electric organs.
7. Used firearms supplied by licensed dealers.

²² John Brooks., Andrew Copp, How to Live with VAT (Berkshire: McGraw-Hill Book Company Publishers, 1989), p. 65.

²³ Vehicles not eligible for the secondhand car schemes are: London taxis, Land-Rovers (van types and 12-seat types), ambulances lorries, buses. Three-wheeled cars can be sold under this scheme.

8. Ponies and horses.

For all these goods VAT is calculated as a part of the margin of sale price for each item, that is, the difference between the price that the suppliers paid for the item when they bought it and the price they sold it for. VAT is taken to be included in the margin of sale and is calculated as a fraction of it in the same way that retailers calculate VAT included in their takings. The formula is²⁴:

This fraction is currently $\frac{\text{tax rate}}{100 + \text{tax rate}} \times \text{Margin of sale.}$

$$\frac{17.5}{100+17.5} = \frac{17.5}{117.5} = \frac{7}{47}$$

To calculate the VAT on an item which cost £300 and was sold for £369 proceeds follow:

Selling Margin $\text{£}369 - \text{£}300 = \text{£}69$

VAT include in the margin $\frac{7}{47} \times \text{£}69 = \text{£}10.28$

If the suppliers consider about registration for VAT, they have to remember that the gross value of their sales which is counted as turnover, not merely the total margins of their sales.

3.2.2 Requirements of the Schemes²⁵

In order to sell goods under the secondhand schemes, certain specific conditions are laid down.

²⁴ Ibid.

²⁵ Ibid., p. 66.

1. The item must have been purchased from a person not registered for VAT, or from a registered person who sold the item to suppliers through the secondhand scheme.
2. The item must not have been sold to suppliers on a tax invoice showing VAT separately (this follows from 1).
3. The suppliers must not claim any input tax deduction on the purchase of the item.
4. When suppliers sell the item they must not issue an ordinary tax invoice for the sale but the special kind of invoice described below.

The Suppliers may often find themselves purchasing items of stock from people who are either not registered for VAT, or selling items privately. The suppliers will not be able to obtain an adequate purchase invoice for such transaction. In such cases they must prepare their own purchase invoice. This must show:

- 1) Identifying number of the invoice;
- 2) Seller's name and address;
- 3) Date of transaction;
- 4) Supplier's name and address as the buyer;
- 5) Description of the item(s) and any identifying numbers (such as registration numbers in the case of cars);
- 6) Gross price paid for the item(s).

The seller must sign and date the invoice to certify that the details regarding his name and address are correct.

When suppliers sell a secondhand car under the scheme they must issue a sales invoice with the same information as given in 1) to 6). Except in this instance they are the seller at 2) and their customer is the purchaser at 4).

The suppliers must also make sure they certify the invoice with the following words “input tax has not been and will not be claimed by me in respect of the goods sold on this invoice”. The suppliers must sign and date the certificate.

Under each scheme a stock book must be maintained recording the purchase and sale of each item of stock. Each item of stock must be entered in the stock book on the date of purchase and it must be given a stock number.

The stock record can be regarded as being split into three areas of information.

- 1) Details of purchase, seller and identification of goods bought.
- 2) Details of sale and buyer of the goods.
- 3) Accounts, stating purchase price, sale price, sales margin and tax due to Customs and Excise.

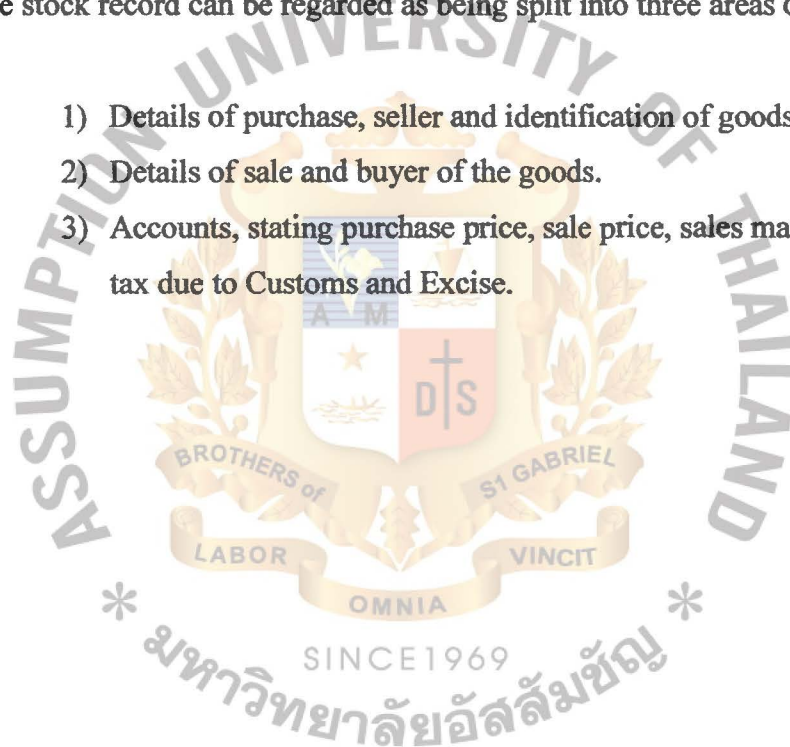


Table 1 Example of stock book for second-hand cars

(A) EXAMPLE OF STOCK BOOK FOR SECOND-HAND CARS

PURCHASED						SOLD		ACCOUNTS			
Stock No.	Date	Invoice No.	From	Reg. No.	Make Model, Year	Date	Invoice No.	To:	PURCHASE PRICE	SELLING PRICE	MARGIN FOR VAT £
HJ 1112	1.3.83	P.887	M. Jones 10 new St. Anywhere.	AAA 666 S	Ford Cortina 1978	1.4.83	S. 10001	A. Smith, 99 Old St., Anytown	£1,670	£1,900	£230.00
						END OF VAT QUARTER TOTALS					
(B) BROUGHT FORWARD UNSOLD FROM PREVIOUS VAT QUARTER						SOLD					
Stock No.	Date	Invoice No.	From	Reg. No.	Make Model, Year	Date	Invoice No.	To:	PURCHASE PRICE	SELLING PRICE	MARGIN FOR VAT £
HJ 779									£900		
HJ 884									£1,050		
HJ 996									£1,300		

(A) = Typical stock book entry for purchase and sale details of a used car.

(B) = Summary of unsold stock brought forward from previous VAT quarter accounts

Table 2 Example of Used Car Sale or Purchase Invoice²⁶

HORNEST JOHN'S MOTOR COMPANY, 111, Fore Street, Anytown. (proprietor: H. John, ESQ.)		USED CAR SALE/ PURCHASE INVOICE NUMBER: S. 10001 Date: 1-4-07	
SELLER	H.J. Motors, 111, Fore Street, Anytown.	BUYER:	A. Smite, 99 Old Street, Anytown.
SIGNED:		SUGNED:	
DATE:	1-4-07	DATE:	1-4-07
VEHICLE			
Make	Ford	Model	Cortina 1600 L.
Registration	AAA 666 S	Year	1979
Colour			
SALE PRICE		£	£ 1,900
Less Discount %			
Stock Book Selling Value			
Deduct:			
Part Exchange on Vehicle No.			
Deposit paid.			
Add:			
Road Tax			
Insurance			
Balance owing			
Cash paid/cheque/H.P.			
<p><u>"Input tax has not been and will not be claimed by me in respect of the car sold on this invoice."</u></p>			
SIGNED	H. John	DATE	1.4.2007

²⁶ Ibid., p. 68.

An example of a stock book applicable to used cars is given on the previous page. For cars, motor cycles, boats, aircraft, etc., registration numbers, engine numbers and similar information must be recorded. For items such as antiques, works of art and scientific collections, a description sufficient to identify the goods will be all that is needed.

For accounting purposes it is recommended to rule of suppliers stock book at the end of each VAT period, then add up the sales margins for all items of stock sold in that quarter. Multiply the total by $\frac{7}{47}$ to arrive at VAT owed to Customs and Excise for stock sold in the period. Enter this output tax in box 1 of suppliers' VAT return.

Make a brief summary of all stock remaining unsold, e.g. by reference to stock number and purchase price only. Carry this summary forward to the records for the next VAT period and begin again.

In this way suppliers need never look at a record for more than one VAT period to see what stock remains unsold.

When suppliers are entering values of secondhand goods on their VAT return, always enter the full value of the goods (excluding any VAT) for both sales and purchases. Do not enter just the value of the margin for the tax purposes.

3.2.3 How to Reduce VAT burden on Secondhand Dealers

If the suppliers sell secondhand goods which are not covered by any of the special schemes, then normally they would have to account for VAT on the full price of anything they sell, where they turnover exceeds £64,000 per annum. If suppliers buy their stock from the general public then they have no input tax to offset against the output tax they owe Customs and Excise. This puts them at a disadvantage compared with other traded-people.

There is, however, one way in which they can reduce their liability to pay VAT instead of buying goods outright from people, suppliers can act as an agent in the sale of their own goods. The suppliers will then have to account for VAT only on the commission they make. For example:²⁷

In a normal transaction:

Supplier buy goods from A: Price £20.

Supplier sells those goods to B: Price £30.

Supplier pay VAT ($\frac{7}{47} \times £30$) = £4.47

As an agent:

Supplier accept goods from A: Retail value £30

Supplier agrees with A to sell goods for £30 and take commission of £10 (equivalent to the profit in the above transaction).

Supplier sells goods to B £30

Supplier pays A £20

Supplier take commission £10

Supplier pay VAT on commission only of ($\frac{7}{47} \times £10$) = £1.49

The suppliers will have to keep a record of the items they are selling in this fashion, who they are selling them for, and how much commission they are making on each transaction. The suppliers would need this to keep their own record straight and to produce the record for inspection by any VAT inspector who might call to examine their accounts.

Naturally most people bringing in goods to a secondhand dealer expect to receive cash straight away. There is no reason why they should not and yet still agree for the suppliers to act as their agent. The suppliers would be able to loan any customer a sum of money up to the retail value of the goods, less their commission. When the goods are sold this automatically cancels the loan.

²⁷ Ibid., p. 69.

Selling goods this way not only reduces the amount of VAT that the suppliers have to pay. It also reduces the suppliers' turnover for VAT purposes. Say, for example²⁸, the gross value of the goods they sell in any year is £70,000. If suppliers trade in the normal way, buying goods from people and selling those goods, they would have to register for VAT and pay output tax of £10,425.53 ($£70,000 \times \frac{7}{100}$). If, however, suppliers act as an agent and, say, they work on a rate of commission of $\frac{1}{3}$ selling price, then they turnover for VAT purposes would only be £23,333.33 ($£70,000 \times \frac{1}{3}$). The suppliers would, therefore, not have to register for VAT for the first instance.

It must be borne in mind that the ownership of goods sold in this way would never pass to the shopkeeper or dealer acting as an agent. The person who brought in the goods would have a legal right to reclaim them at any time up to the time when they are sold.

3.2.4 The Law Covers with the "Margin Scheme"

1. Article 26a²⁹ of the EC Sixth VAT Directive, which details the special arrangements applicable to secondhand goods, works of art, antiques and collectors' items.
2. Section 50A³⁰ of the VAT Act 1994, which allows the Treasury to make Order to introduce secondhand schemes.

²⁸ Ibid., p. 70.

²⁹ Appendix C.

³⁰ Appendix D.

3.3 The Method for Taxed Secondhand Cars in Singapore.

Singapore's Goods and Services Tax (GST) is a broad-based consumption tax levied on import of goods, as well as nearly all supplies of goods and services. The only exemptions are for the sales and leases of residential properties and most financial services. Export of goods and international services are zero-rated.

*"Goods and Services Tax"*³¹ or *GST* was introduced in Singapore on April 1, 1994 at 3%, but later increased to 4% on 1 January 2003 and 5% on 1 January 2004. It is raised again to 7% on 1 July 2007.

The GST was introduced as part of a large tax restructuring exercise to enable Singapore to shift its reliance from direct taxes to indirect taxes. The GST also enables the country to sustain a lower income tax rate.

The government argues that with an ageing population, Singapore's income tax base is expected to decline. With a broad-based GST, the taxation burden will be more evenly spread among the population. Thus, the GST was introduced as part of a larger exercise to put in place a tax structure to see the country into the future.

A value-added tax, like the GST, also has several features that make it attractive. Being a tax on consumption, and not on income, the tax system inherently encourages savings and investments instead of consumption. The tax also has a self-policing mechanism that discourages evasion, unlike in a retail sales tax system or an income tax system where it would be relatively easier to evade.

³¹ Wikipedia, *Goods and Services Tax Singapore*, in http://en.wikipedia.org/wiki/Goods_and_Services_Tax_Singapore, access date June 18, 2007.

3.3.1 The Method for Taxed VAT on Secondhand Car in Singapore

1. Introduction

As a secondhand car dealer, the suppliers have the option of two schemes that are Gross Margin Scheme and Discounted Sale Price Scheme³² for their secondhand car transactions and their calculation of output tax.

For GST purposes, delivery mileage or the registration for road use does not turn a new car into a secondhand car. Cars are 'unused' until either:

- 1) they have been driven on the road following a retail sale; or
- 2) they have been appropriated by the dealer for his business.

2. SCHEME 1: Gross Margin Scheme

This scheme is made available to secondhand car dealers to prevent the double taxation that would occur when certain cars pass through the retail stage more than once where the tax on previous sales cannot be recovered.

Features of this scheme:

- 1) Prior approval by the Comptroller of GST must be sought by the suppliers to operate the Gross Margin Scheme. Once granted, suppliers still have the option to use either this scheme or the Discounted Sale Price. However, in order to use the gross margin scheme for any sale, either one of the following conditions must be satisfied:

³² The current discount rate used under the Discounted Sale Price Scheme is 50%. This rate is subject to review by IRAS.

- (1) the car was previously purchased from an individual or a non-GST registered dealer (i.e. no GST was incurred on the purchase); or
- (2) the car was previously bought from a GST registered car dealer who used this scheme (i.e. no tax invoice was issued by the car dealer to suppliers and hence no input tax was claimed by the suppliers also).

2) GST is chargeable on the margin between the selling price which is treated as inclusive of GST and purchase price. Please see page 30 for the example.

3) No tax invoice is to be issued under this scheme. The normal invoices will suffice with some minor modifications which are detailed in page 32 "Selling a Car" 1). It is important to note that the GST chargeable is not to be shown on it.

3. SCHEME 2: Discounted Sale Price Scheme

This scheme is to be used in the sale of a secondhand vehicle which does not qualify under the Gross Margin Scheme.

Features of this scheme:

- 1) GST is charged on 50% of the value of the car
- 2) Tax invoice may be issued upon request from suppliers' customer to enable him to claim it as input tax if he is GST registered. Please refer to page 32 "Selling a Car" 2) for the specifications.
- 3) It is used when

- (1) input tax was previously claimed by the dealer (i.e. Gross Margin Scheme is no longer applicable); or
- (2) dealer's customers are registered for GST.

4. Comparisons between the Gross Margin Scheme and the Discounted Sale Price Scheme (50%)

Table 3 Calculation of Output Tax and Value of Standard-Rated Supply

	Gross Margin Scheme	Discounted Sale Price Scheme
Selling Price	\$50,000.00 (inclusive of GST)	\$50,000.00 + GST
Value of the car	\$50,000.00 – GST	\$50,000.00
Cost Price	\$45,000.00	\$45,000.00
Gross Margin	$$(50,000 - 45,000)$ = \$5,000.00	N.A.
GST	$7/107 \times \$5000$ = \$327.10 (not to be shown on invoice)	$7\% \times 50\% \times \$50,000$ = \$1750 (to be shown on tax invoice)
Value of standard rated Supply	selling price less GST = $$(50,000 - 327.10)$ = \$49,761.90	value of the car = \$50,000.00
Output tax	\$327.10	\$1750
Input tax	\$0.00 (no input tax claimable as no tax invoice was issued by the seller to supplier)	$7\% \times 50\% \times \$45,000$ = \$1575 (based on the tax invoice issued by the seller to supplier)
Net GST	\$327.10	\$175

5. Record Keeping For Both Schemes

- 1) Purchase and sales/tax invoices for sales made under both the Gross Margin Scheme and the Discounted Sale Price Scheme. Please refer to page 32 “Buying a Car from an Individual” and “Selling a Car” for greater details.

2) Stock book or similar records with separate headings for each of the following:

Purchase details

- stock number in numerical sequence
- date of purchase
- purchase invoice number
- name of seller
- vehicle registration number, vehicle's engine and chassis numbers
- model and make

Sales details

- date of sale
- sales invoice number
- name of purchaser

Accounting details

- purchase price
- selling price
- method of disposal (gross margin or discounted sale price method)
- margin in sale (if applicable)
- tax rate on the date of the sale
- GST due

The suppliers can include any other items in their stock book for their own accounting purposes, but the details listed above must always be shown and their stock book must be kept up-to-date. The suppliers must keep their records for at least 7 years.

6. Buying a Car from an Individual

When the suppliers buy a car from an individual,

- 1) The suppliers must make out a purchase invoice showing:
 - (1) seller's name and address
 - (2) supplier's name and address
 - (3) stock book number (in numerical order) and day book number
 - (4) invoice number
 - (5) date of transaction
 - (6) particulars of car such as registration number, make/model, vehicle's engines and chassis numbers
 - (7) total price
- 2) The seller must sign and date the invoice, certifying that he is the seller of the car at the stated price.
- 3) The suppliers are to enter the purchase details of the car in their stock book under the headings shown, including the purchase price. The purchase price is the price on the invoice which has been agreed between supplier and the seller. It is not to be altered.

7. Selling a Car

When the suppliers sell a car,

- 1) The sales invoice issued under the Gross Margin Scheme must show the following:
 - (1) supplier's name and address and GST registration number
 - (2) buyer's name and address
 - (3) stock and day book number

- (4) invoice number
- (5) date of issue of invoice
- (6) particulars of car such as registration number, make/model, vehicle's engines and chassis numbers
- (7) total price
- (8) supplier's signature and date on the invoice certifying on it that "input tax deduction has not been and will not be claimed by me in respect of the vehicle sold on this invoice".

2) The tax invoice issued under the Discounted Sale Price Scheme must show the following:

- (1) the words "tax invoice" in a prominent place
- (2) an identifying number
- (3) date of issue of the invoice
- (4) supplier's name, address and registration number
- (5) buyer's name and address
- (6) stock and day book number
- (7) particulars of car (registration number, make/model, vehicle's engine and chassis numbers)
- (8) type of supply (e.g. hire purchase)
- (9) any cash discount offered
- (10) amount payable, excluding GST
- (11) rate of GST
- (12) total tax chargeable as a separate amount
- (13) total amount payable including the total tax payable

3) The customer must sign and date the invoice, stating that he is the buyer of the car at the price shown.

4) The sales details and selling price of the vehicle must be entered into the stock book under the appropriate headings.

5) A copy of the sales/tax invoice is to be maintained.

8. Hire Purchase Transaction

This is a financing scheme which allows the buyer of a car to obtain financial assistance in the form of a loan from a finance company. The loan will form a substantial portion of the purchase price while the rest will usually be paid off by the buyer of the car. Generally, the buyer will place a deposit upon choosing a vehicle. At the point of sale, a secondhand car dealer would know which method to be used to calculate the GST chargeable.

1) Gross Margin Scheme

Assuming that suppliers had purchased a car from an individual, in this case, the Gross Margin Scheme can be applied since no GST was charged previously by the individual.

A deposit of \$10,000 is placed by supplier's customer for the purchase of this secondhand car. The supplier will issue a receipt for the deposit to him.

The amount of GST to be accounted to IRAS depends on whether the deposit placed by supplier's customer is greater than the gross margin of the sale or not.

The following table shows the amount of output tax to be accounted for under each scenario:

Table 4 The Amount of Output Tax to be accounted under Gross Margin Scheme

	Scenario 1 Deposit > Gross Margin	Scenario 2 Deposit < Gross Margin
Selling Price	\$50,000.00 (inclusive of GST)	\$50,000.00 (inclusive of GST)
Cost Price to dealer	\$45,000.00	\$35,000.00
Gross Margin	$$(50,000 - 45,000)$ = \$5,000.00	$$(50,000 - 35,000)$ = \$15,000
GST	$7/107 \times \$5000$ = \$327.10	$7/107 \times \$15,000$ = \$981.31
Deposit	\$10,000	\$10,000
GST on deposit	$7/107 \times \$10,000$ = \$654.21	$7/107 \times \$10,000$ = \$654.21
Output tax to be accounted	\$327.10 since GST charged on the whole transaction is limited to \$327.10 only.	$\$981.31 = \$654.21 + \$327.10$ • \$654.21 will be accounted first, out of the \$10,000 deposit received from supplier's customer. • The remaining \$327.10 will be accounted subsequently, out of the \$40,000 received from the finance company.

Under scenario 1, where the deposit is greater than the gross margin, the output tax to be accounted is \$327.10 instead of \$654.21. This is because the amount of GST charged on the whole transaction is limited to \$327.10 only.

Under scenario 2, the amount of output tax is \$981.31. Out of this amount, \$654.21 will be accounted first, based on the \$10,000 deposit placed by your customer. The remaining \$327.10 will be accounted based on the \$40,000 received from the finance

company. For both scenarios, a normal invoice (i.e. not a tax invoice) is to be issued to the finance company.

2) Discounted Sale Price Scheme

Two scenarios may arise when using the discounted sale price scheme. They are as follows:

Scenario 1

Hirer pays deposit and GST on the deposit. The balance of the purchase price (including GST on the balance) is to be financed by a finance company. (Page 39 and 40)

Scenario 2

Hirer pays deposit and the GST on the full purchase price. The balance of the purchase price (excluding GST) is to be financed by a finance company. In such situation where the GST component is not financed by the finance company, the GST collected upfront on the financed amount is considered to be paid by the customer on behalf of the finance company. The suppliers should indicate on their tax invoice that GST due from the finance company has been collected upfront from the customer. (Page 41 and 42)

Example

The following values are used in the tables below to show how the tax invoices should be issued by the supplier and the finance company:

Example (continued)

	Value	GST @ 7% X 50%
Deposit placed by hirer (20%)	\$10,000	\$350
Financed Amount (80%)	\$40,000	\$1,400
Selling price of the vehicle	\$50,000	\$1,750

Table 5 Issuing the Tax Invoices by the Supplier and the Finance Company under Discounted Sale Price Scheme

Supplier	Finance Company	Hirer
Value of Supply \$51,750 (inclusive of GST)	Financed Amount \$41,400	Deposit paid \$10,350
Deposit <u>Tax Invoice Issued</u> Deposit \$10,000 GST (@ 7% X 50%) <u>350</u> \$10,350		<u>Tax Invoice Received</u> Deposit \$10,000 GST (@ 7% X 50%) <u>350</u> \$10,350
<u>Tax Invoice Issued</u> Selling Price \$50,000 GST (@ 7% X 50%) <u>1,750</u> Total \$51,750 Less : Deposit 10,000 GST (@ 7% X 50%) <u>350</u> Balance \$41,400	<u>Tax Invoice Received</u> <u>From Supplier</u> Selling Price \$50,000 GST (@ 7% X 50%) <u>1,750</u> Total \$51,750 Less : Deposit 10,000 GST (@ 7% X 50%) <u>350</u> Balance \$41,400	<u>Tax Invoice Received</u> <u>From Finance</u> <u>Company</u> Financed amount \$40,000 GST (@7% 50%) <u>1,400</u> Total \$41,400
	<p>Balance comprises taxable supply of \$40,000 and GST of \$1,400 due from finance company.</p> <p>Finance company entitled to input tax of \$1,400.</p> <p><u>Tax Invoice Issued to Hirer</u> Financed Amount \$40,000 GST (@ 7% X 50%) <u>1,400</u> \$41,400</p>	

For a sample of how the tax invoices should look like under each scenario, please refer to Page 39 to 42:

Scenario 1

- Page 39 shows a sample tax invoice issued by the supplier to the finance company.
- Page 40 shows a sample tax invoice issued by the finance company to the customer.

Scenario 2

- Page 41 shows a sample tax invoice issued by the supplier to the finance company.
- Page 42 shows a sample tax invoice issued by the finance company to the customer.

3.3.2 The Law Covers with “Gross Margin Scheme” and “Discounted Sale Price Scheme”

1. Gross Margin Scheme is related with Section 23³³ of the GST Act of Singapore.
2. Discounted Sale Price Scheme is related with the Third Schedule Paragraph 14³⁴ of the GST Act of Singapore.

³³ Appendix E.

³⁴ Appendix F.

(SAMPLE INVOICE)

ABC Automobile Company Pte Ltd**Tax Invoice**

GST Reg. No.: M2-1234567-8

Stock No. : 08T/C

Day Book No.: 002

Invoice no. : YR010104

Date : 01/01/07

XYZ Finance Company Pte Ltd

999 Newton Street

Singapore 200000

Type of Supply : Hire Purchase

No.	Description	Amount (S\$)
1.	Car Reg. No. : 128984 Make/Model : Toyota/Corolla Vehicle engine/chassis no. : 1039586N/498201A	\$50,000.00
	Add : GST @ 7% X 50% X \$50,000	<u>\$1,750.00</u>
	Gross Amount Due	\$51,750.00
	Less : Deposit Paid by Customer	\$10,000.00
	GST @ 7% X 50% X \$10,000	<u>\$ 350.00</u>
	Net Amount Due From You	<u>*\$41,400.00</u>
	* Taxable Value =	\$40,000.00
	GST at 7% X 50% X \$40,000 =	<u>\$ 1,400.00</u>
		<u>\$41,400.00</u>

Authorized Signatory

(SAMPLE INVOICE)

XYZ Finance Company Pte Ltd**Tax Invoice**

GST Reg. No.: M2-9876543-2

Invoice no. : PO010104

Date : 01/02/07

DEF Car Buyer Company Pte Ltd
 900 Wheelock Avenue
 Singapore 200001

Type of Supply : Hire Purchase

No.	Description	Amount (S\$)
1.	Car Reg. No. : 128984	
	Make/Model : Toyota/Corolla	
	Vehicle engine/chassis no. : 1039586N/498201A	\$50,000.00
	Less : Deposit Paid by You	<u>\$10,000.00</u>
	Gross Financed Amount	<u>\$40,000.00</u>
	Add : GST @ 7% X 50% X \$40,000	\$ 1,400.00
	Net Amount Due From You	<u>\$41,400.00</u>

Authorized Signatory

(SAMPLE INVOICE)

ABC Automobile Company Pte Ltd**Tax Invoice**

GST Reg. no. : M2-1234567-8

Stock No. : 04T/C

Day Book No.: 002

Invoice no. : YR010104

Date: 01/01/07

XYZ Finance Company Pte Ltd

999 Newton Street

Singapore 200000

Type of Supply : Hire Purchase

No.	Description	Amount (S\$)
1.	Car Reg. No. : 128984	
	Make/Model: Toyota/Corolla	
	Vehicle engine/chassis no. : 1039586N/498201A	\$50,000.00
	Add: GST @ 7% X 50% X \$50,000	<u>\$1,750.00</u>
	Gross Amount Due	\$51,750.00
	Less: Deposit Paid by Customer	\$10,000.00
	GST @ 7% X 50% X \$10,000	<u>\$350.00</u>
	Gross Amount Due From You	*\$41,400.00
	Less: GST 7% (Paid Upfront By the Customer)	<u>\$1,400.00</u>
	Amount Due	<u>\$40,000.00</u>
	* Taxable Value	= \$40,000.00
	GST at 7% X 50% X \$40,000	= <u>\$1,400.00</u>
		<u>\$41,400.00</u>

Authorized Signatory

(SAMPLE INVOICE)

XYZ Finance Company Pte Ltd**Tax Invoice**

GST Reg. no.: M2-9876543-2

Invoice no.: PO010104

Date: 01/02/07

DEF Car Buyer Company Pte Ltd
 900 Wheelock Avenue
 Singapore 200001

Type of Supply: Hire Purchase

No.	Description	Amount (\$\$)
1.	Car Reg. No. : 128984	
	Make/Model: Toyota/Corolla	
	Vehicle engine/chassis no. : 1039586N/498201A	\$50,000.00
	Less: Deposit Paid by You	\$10,000.00
		<hr/>
	Gross Financed Amount	\$40,000.00
	Add: GST @ 7% X 50% X \$40,000	\$ 1,400.00
		<hr/>
	Gross Amount Due From You	\$41,400.00
	Less: GST Paid Upfront by You	\$ 1,400.00
	Net Amount Due From You	\$40,000.00

Authorized Signatory

Chapter 4

Analysis of the Problems of VAT on Sale of Secondhand Cars in Thailand

4.1 The System of Value Added Tax Avoidance on Sale of Secondhand Cars

In general, The Revenue Department authorized by the Revenue Code, the method for accounting VAT on sale of goods is based on full price of the goods. For the sale of secondhand car businesses, the business operators or suppliers have to pay VAT to the Revenue Department and also have duty to issue tax invoice for customers as evidence for the sale.

However, the sale of secondhand car business has the method for avoiding VAT, according to the legal loopholes such as the problem of the interpretation and the problem on matter of law that does not have the specific meaning to this kind of businesses, suppliers or business operators use these loopholes as useful for their businesses. Furthermore, account for VAT at the rate of 7% on the full price of the secondhand cars make the price too high because the price of the car that are bought and sold in the car market is approximately ten thousand to a million Baht up. When the price is too high it effects to the customer's decision for buying a car because the customer, especially the natural person, has to undertake the high VAT as a final consumer as well.

So the best way for the business operators is to use the legal loopholes as useful by not issuing tax invoice as an evidence for sell and purchase secondhand cars to the customers. Therefore, sale of secondhand car businesses do not need to add Value Added Tax (7%) into the car price which means; they can sell cars at low prices and the customers can easily make buying decisions.

Example:

Mr. A, the owner of “TOYOTA” car wants to sell his car to the market so he makes an agreement with the sale of secondhand car business, whose name is “B”, to sell his car at 400,000 baht. “B” paid the total amount of the car price with cash to Mr. A and Mr. A, signed a blank endorsement for transferring his right and ownership of the car to the new owner and gave to “B”. “B” set a price for selling at 500,000 baht and Mr. C likes this car and willing to pay for the price, “B” will give him blank endorsement that Mr. A signed before, for transferring his rights, to Mr. C. Mr. C just only signed his name on it for accepting the rights and became the new owner of the car. In this transaction the sale of secondhand car business, named “B”, does not issue any tax invoice for using as an evidence but use the signature between Mr. A and Mr. C on blank endorsement and the registration at Department of Land Transport as evidence instead.

However, there are no serious problems for the customers, who are willing to buy secondhand cars, for not derive tax invoice issuing from business operators or suppliers because they can buy cars in price without Value Added Tax at 7% and also the business operator does not need to pay VAT to the Revenue Department, since there were no evidence to prove that the selling or purchasing transaction happened.

However, using the legal loopholes caused the government to lose huge amount of money that the government supposed to derive from this transaction (e.g. the cost of secondhand car is 400,000 baht per one car, VAT 7% is 28,000 baht, assumed that if there are 30,000 secondhand cars that sold in a year. Government will lose the total income of 840,000,000 baht per year.)

4.2 The Legal Problems in term of Collecting VAT on Sale of Secondhand Cars in Thailand

Nowadays, Thailand does not have any prevention about the problem of tax avoidance for sale of secondhand car businesses. The method for collecting VAT is

based on the Revenue Code and a few related laws, when compared between Thai Law and other countries Laws such as the United Kingdom and Singapore, these countries have special schemes for taxed on secondhand cars (Secondhand vehicle). Due to lack of special schemes for taxed, the Revenue Department faced the big problem for closing the legal loopholes and Thailand lost huge amount of money from these tax avoidance. For many years, the suppliers or business operators always use these loopholes as useful for their own businesses.

The major problem that can be analyzed from this research is the problem of matter of law. The content of law is not cover the method for accounting VAT, especially on sale of secondhand car business. Therefore using the general method for account VAT for sale of secondhand car is used as ordinary account for VAT for sale of goods, which the law provided in the Revenue Code. It means account for VAT on full price in every transaction for sale and purchasing secondhand cars.

Moreover, the interpretation of the word “Goods” that provided in the Revenue Code is used to account for VAT on ordinary sale of goods include sale of secondhand car. In this sale of secondhand cars, the Revenue Code does not have any special schemes for taxed include the meaning of the word “Secondhand Car”, how to account for VAT on sale of secondhand car and also the rules for taxed.

However, the problem of matter of law that not provided specific in the sale of secondhand car business and problem of the interpretation of the word “Goods”, as mentioned above, lead the legal loopholes to occur. These loopholes are a chance for the business operators or suppliers to avoid tax. For the United Kingdom and Singapore, they have the special schemes for account VAT on sale of secondhand car. They separate the method for account VAT on sale of secondhand cars out from the general method for account VAT and these special schemes are fair for the taxpayer, moreover, theses schemes can cure the problem of the interpretation and the problem of matter of law very well.

4.2.1 Tax Base

The problem of tax base is there is no specific tax base for the sale of secondhand car, at present, tax base is provided in Section 79 to account for VAT, tax base is calculate from full price of the goods and now to account for VAT on sale of secondhand cars still use this general method. This kind of tax base cost the price of secondhand good that used to tax once a lot and effected to the customers' decision for buying secondhand one.

4.3 The Practical Problem in term of Collecting VAT on Sale of Secondhand Cars in Thailand

Tax invoice is the important commercial document issued by a seller to a buyer, indicating the products, quantities and agreed prices for products or services with which the seller has already provided the buyer and also it can be use for calculating VAT for the seller (suppliers or business operators) to submit VAT to the Revenue Department.

In practical problem, the business operators or suppliers use the legal loopholes as an advantage to avoid tax. They do not issue tax invoice as an evidence for sale of secondhand cars in their own businesses.

Issuing tax invoice seemed making evidence tied up theirs own businesses and show that the process of sale of secondhand cars happened in this or that month, it means the business operators or suppliers have to submit VAT to the Revenue Department also.

On the other hand, if they did not issue any tax invoice, the Revenue Department will not be able find evidence to force them subject to VAT. However, the customers still need some evidence for make sure that they derived the right and ownership of the cars completely. So using blank endorsement in sale of secondhand car business is the way out. When the customers signed on blank endorsement after they paid for the

price, this blank endorsement seemed to be evidence between buyer and seller. Mostly, there is no problem about not issuing tax invoice for them because they think that they already derived the ownership of the cars completely.

4.4 The Special Schemes for Taxed VAT

The way to collect VAT in Thailand, the United Kingdom and Singapore are different. The United Kingdom and Singapore have the specific schemes for taxed VAT on sale of secondhand cars and also have the specific form of tax invoice separately from the normal tax invoice (especially in the United Kingdom) that make the collection for tax can prove easily.

Thailand does not have any specific schemes for taxed VAT like the United Kingdom and Singapore. Nowadays, Thailand does not have any special provision for taxed or special schemes to account for VAT on secondhand cars. Thailand uses only the law that described on the Revenue Code and adapts it to the related cases, so the legal loopholes happen. The car tents or business operators use these loopholes for avoiding tax because they do not want to have tax burden that cost them a lot because sale of goods, normally, account for VAT on the full price.

The United Kingdom and Singapore have special schemes for taxed on secondhand cars by using “the Margin Scheme” (the United Kingdom’s schemes), “Gross Margin Scheme” or “Discounted Sale Price Scheme” (Singapore’s schemes). These schemes, to account for VAT on secondhand cars no need to account for VAT on the full price such as “the Margin Scheme” and “Gross Margin Schemes” value added tax is chargeable on the margin between the selling price and purchase price. VAT is taken to be included in the margin of sale and is calculated as a fraction of it in the same way that retailers calculate VAT included in their takings. For the “Discounted Sale Price” value added tax is charged on 50% of the value of the car.

Thailand can adapt the accountancy for VAT from these schemes such as “the Margin Scheme” (the United Kingdom’s schemes), “Gross Margin Scheme” or “Discounted

Sale Price Scheme” (Singapore’s schemes) and use them for helping the Revenue Department to account for VAT fairly because this collecting scheme does not account on full price of the secondhand cars, which used to taxed on full price once before. These schemes lead the business operators or car tents and consumers willing to pay VAT without the idea to avoid VAT because they do not have to pay VAT on full amount.

The important idea for taxed VAT on secondhand goods of the United Kingdom is that the author wanted to present is *“there is no overall exemption from VAT for goods merely because they are being sold secondhand or in used condition. Neither is a person exempt from VAT registration because he deals in secondhand goods. Thus all sales of used goods, equipment and machinery are subject to VAT at the normal rate. A person opening up a secondhand shop will have to register for VAT of his total turnover exceeds, or is expected to exceed, the current limit for VAT registration.”*

The United Kingdom explained very clearly in the law that no exemption from VAT for goods merely because they are being sold as secondhand. Then no legal loopholes would occur, the suppliers or business operators could not interpret the sale of goods into other kind of goods for avoiding tax. Thailand still has the loopholes for interpretation of law so the supplier or business operators can use it for avoiding tax due to no special provision to support.

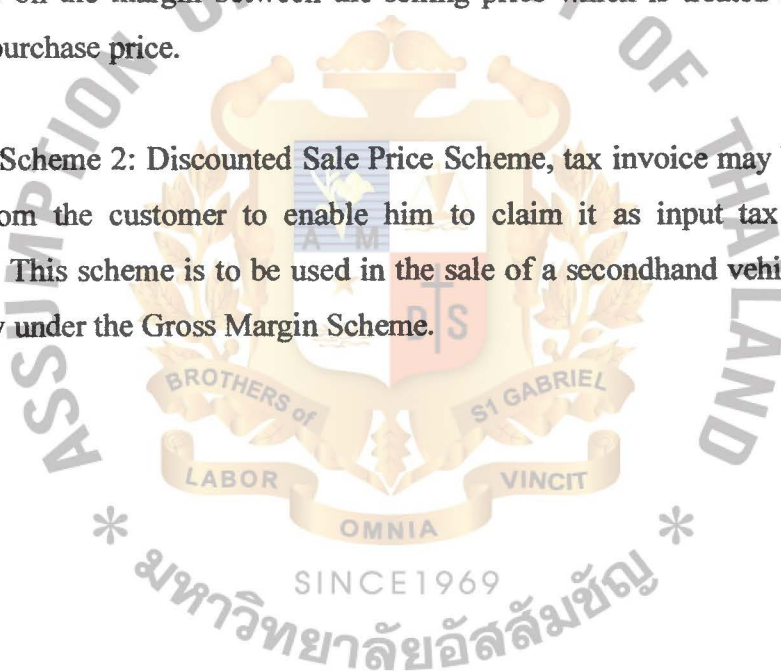
Normally, sale of goods and sale of secondhand goods in Thailand use same tax invoice, so for checking of the source of goods cannot be clearly. Tax invoices in the United Kingdom for selling and purchasing secondhand goods are different from general tax invoice in Thailand, The United Kingdom uses special tax invoice for record details that mentioned in Chapter3.

Moreover, to be special tax invoice in the United Kingdom it must have the clause below on tax invoice for separate a type of accountancy for VAT. For issuing purchase invoice in the United Kingdom it must issue *“Input tax deduction has not been and will not be claimed by me in respect of the car sold on this invoice”* below

on the invoice to show that this selling and purchasing is not account for VAT on full price likes ordinary sale of goods and expressed that the suppliers will not claim VAT that come from this sale.

In Singapore, for using Scheme 1: Gross Margin Scheme, no tax invoice to issue but the suppliers can use normal tax invoice by note the important clause to note that the GST chargeable is not to be shown on it such as *“input tax deduction has not been and will not be claimed by me in respect of the vehicle sold on this invoice”*. This clause makes people know that this is tax invoice using in Scheme 1, GST is chargeable on the margin between the selling price which is treated as inclusive of GST and purchase price.

For using Scheme 2: Discounted Sale Price Scheme, tax invoice may be issued upon request from the customer to enable him to claim it as input tax if he is GST registered. This scheme is to be used in the sale of a secondhand vehicle which does not qualify under the Gross Margin Scheme.



Chapter 5

Conclusion and Recommendations

5.1 Conclusion

Value Added Tax (VAT) is useful for the Thai economy because it generates income to the government more than other kind of taxes because VAT is indirect tax that levied on the added value or on increased value of goods at each point in the chain of production and distribution, from the raw material stage to final consumption. Thus, VAT can earn a huge of revenue to the Thai Government for the purpose of funding the building and maintenance of parks, schools, roads, and other public facilities.

In Thailand, the rates of Value Added Tax for general sale of goods are 7% (November, 2007). Actually, the rate for taxed VAT in Thailand is 10% but Royal Decree (No.465) B.E.2550 enacted an announcement to decrease the rate to 7%.

From this research the author presented about “the Problems of Value Added Tax on Sale of Secondhand Cars in Thailand”. These problems effect to the government’s revenue because of Thai tax law has legal loopholes in the matter of law and also the interpretation of law. The suppliers use these loopholes for avoiding tax; it means the Revenue Department cannot collect VAT from sale and purchase of secondhand cars in secondhand car businesses.

The VAT was invented by French economist in 1954 and extended over time to all business sectors. In principle VAT is a tax on goods and services consumed in the home market; the tax is complicated because it is collected at every stage of production and distribution. Value added is the contribution of a particular firm to the value of the product. It can be calculated either directly by taking the value of a firm’s wage and salaries bill plus profits, or indirectly by subtracting the costs of materials and services (such as electricity and transport) that the firm has bought in from the value of the products it sells.

For the special schemes for the sale of secondhand goods in United Kingdom, the idea for taxed VAT on secondhand goods is there is no overall exemption from Vat for goods merely because they are being sold secondhand or in a used condition. Neither is a person exempt from VAT registration because he deals in secondhand goods. Thus all sales of used goods, equipment and machinery are subject to VAT at the normal rate but certain used goods may be sold under special schemes for VAT to be calculated on a reduced value such as used motor cars or secondhand cars.

In the United Kingdom, the suppliers cannot avoid VAT because this country has special scheme to account for VAT but different from the general method to account for VAT on sale of secondhand cars. This special scheme is different from the general method, which account on full price, it accounts as a part of the margin of sale price for each item. The “Margin of Sale Price” means the difference between the price you paid for item when you bought it and the price you sold it for. Therefore, the business operators or suppliers and customers will not feel like they are pressed upon too much tax burden.

Moreover, the special tax invoice that use only in the sale of secondhand cars in the United Kingdom is very good idea. The suppliers may often find themselves purchasing items of stock from people who are either not registered for VAT, or selling items privately. Thus, issuing this special tax invoice will help the suppliers obtain an adequate purchase invoice for such transaction.

Value Added Tax in Singapore is called “Goods and Services Tax” (GST). “Goods and Services Tax” is a broad-based consumption tax levied on import of goods, as well as nearly all supplies of goods and services. In Singapore, it also has special schemes to account for VAT on sale of secondhand cars similar to the United Kingdom. Two special schemes for applying with the sale of secondhand cars in Singapore are 1) “Gross Margin Schemes” and 2) “Discounted Sale Price Scheme”.

The source of the provision of “Gross Margin Scheme” (GMS) is to mitigate the tax burden on the final buyer of the secondhand cars. This is especially for new car

buyers who are non GST registered individuals. The dealer who buys their secondhand cars will then be charging GST on the sale of the secondhand cars to the next buyer. “Gross Margin Scheme” is applied when there is no GST incurred previously on the purchase of the car (i.e. a purchase from a non GST registered individual or a purchase from a GST registered car dealer who used “Gross Margin Scheme” on the sale of the car.) If “Gross Margin Scheme” is applied, the seller cannot issue a tax invoice for this sale.

The source of provision of “Discounted Sale Price Scheme” (DSPS) is to correct the tax distortion created by Certificate of Entitlement and Additional Registration Fee on the market price of the secondhand cars as GST is not applicable on these components. “Discounted Sale Price Scheme” is applied when input tax was previously claimed by the car dealer and this car dealer is GST registered. If “Discounted Sale Price Scheme” is applied, the seller can issue a tax invoice for this sale.

From this research presented the methods and problems for taxed VAT in Thailand and the well-conceived method of the United Kingdom and Singapore. The special schemes to account for VAT on secondhand cars of both countries are useful for Thai government to improve and apply these special schemes for closing legal loopholes on VAT collecting method in Thai tax law. Furthermore, these special schemes are useful for the suppliers and the final buyer of the secondhand cars because they mitigate the suppliers and the final buyers’ tax burden.

5.2 Recommendations

1. The Government should enact Royal Decree for closing the legal loopholes, which caused the problem of collecting VAT, by issuing special scheme for taxed VAT on sale of secondhand cars.

However, for using this special schemes to account for VAT, tax base that described in Section 79 of the Revenue Code have changed. Thus, for enacting Royal Decree have to issue under Section 79/9 of the Revenue Code³⁵.

In the detail of Royal Decree, it should be described about the meaning of the word of “secondhand car”, the rules and conditions of the “Gross Margin Schemes”. Moreover, for clearly understanding, the Government should enact the Director-General Notifications for explaining about how to account for VAT in this special scheme.

Or

2. Issue Director-General Notifications under Section 79 (4) of the Revenue Code³⁶.

For issuing Director-General Notifications, it should specific in the topic of “The descriptions and conditions which are not account for the value of the tax base under Section 79 (4)”. In this Director-General Notifications will express about VAT exemption on buying price of the secondhand car when the suppliers bought it, by not value added on the buying price as tax base. Moreover, it should give the description about the meaning of the word of “secondhand car”, the rules and conditions of the “Gross Margin Schemes” and also the explanation about how to account for VAT in this scheme.

From the recommendations above, Thailand should apply the “Gross Margin Schemes” of Singapore, as well as, “the Margin Scheme” in the United Kingdom that

³⁵ Section 79/9 the tax base for sale of goods, provision of services or import of goods that is not dealt with in this Division shall be as prescribed by a Royal Decrees. Such a Royal Decree may also prescribe any rules and conditions for the purpose of ascertaining value of the tax base for such transactions.

³⁶ Section 79 value of the tax base shall be exclusive of-
 (4) compensation answering to the descriptions and conditions given or prescribed by the Director-General with the approval of the Minister.

account for VAT on the margin of the price because the method to account for VAT is fair enough for the customers and also the suppliers or business operators.

This scheme will account for VAT on the margin between the selling price and purchase price (purchase price - selling price = margin). Furthermore, there are requirements of this scheme that either one of the following must be satisfied:

- 1) the car was previously purchased from an individual or a non-GST registered dealer or
- 2) the car was previously bought from a GST registered car dealer who used this scheme

For the VAT registered, who was claimed input tax in the last transaction, the scheme that should apply to account for VAT is the general method that provided in the Revenue Code.

However, the government should apply the United Kingdom's method for issuing special tax invoice for sale of secondhand cars separated from the general tax invoice, by showing the important details as follows:

- 1) Identifying number of the invoice;
- 2) Seller's name and address;
- 3) Date of transaction;
- 4) Your name and address as the buyer;
- 5) Description of the item(s) and any identifying numbers (such as registration numbers in the case of cars);
- 6) Gross price paid for the item(s).

The seller must sign and date the invoice to certify that the details regarding his name and address correct.

When suppliers sell a secondhand car under the scheme they must issue a sales invoice with the same information as given in 1) to 6). Except in this instance they are the seller at 2) and their customer is the purchaser at 4).

In this special tax invoice should have the clause *“Input tax has not been and will not be claimed by me in respect of the car sold on this invoice”* below the invoice for assuring that this invoice the suppliers can not claim input tax from this sale.

The suppliers may often find themselves purchasing items of stock from people who are either not registered for VAT, or selling items privately. Thus, issuing this special tax invoice will help the suppliers obtain an adequate purchase invoice for such transaction.



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Appendix A

ROYAL DECREE

Issue under the Revenue Code Governing the Reduction of Value Added Tax Rates B.E. 2550 (No.465)

BY Royal Command of His Most Excellent Majesty King Bhumibol Adulyadej, it is hereby proclaimed that-

Whereas it is deemed proper to modify the reduction of the value added tax rates;

Be it, therefore, enacted a Royal Decree by the King's Most Excellent Majesty, in exercise of the power under Section 221 of the Constitution of the Kingdom of Thailand and Section 80 of the Revenue as amended by the Revenue Amendment Act (No.30) B.E.2534, as follows:

Section 1 This Royal Decree is called the "Royal Decree Issue under the Revenue Code Governing Reduction of Value Added Tax Rates (No.465) B.E. 2550."

Section 2 This Royal Decree shall come into force on and from the 1st Day of October B.E. 2550.

Section 3 There shall be repealed the Royal Decree Governing Reduction of Value Added Tax Rates (No.440) B.E. 2548 of the Revenue Code.

Section 4 The rate of value added tax under Section 80 of the Revenue Code shall be reduced to-

(1) 6.3 percent for the sale of goods, provision of services, or import in all cases where the liability to value added tax shall be from the 1st Day of October B.E.2550 until the 30th Day of September B.E.2551,

(2) 9.0 percent for sale of goods, provision of services, or import in all cases, where the liability to value added tax shall begin from the 1st Day of October B.E.2550 onwards.

Section 5 The Minister of Finance shall have the care charge of this Royal Decree.

Appendix B

ROYAL DECREE

Issue under the Revenue Code

Governing Designation of the Value of the Tax Base of a Small Business Exempt from Value Added Tax B.E.2548

(No.432)

BY Royal Command of His Most Excellent Majesty King Bhumibol Adulyadej, it is hereby proclaimed that-

Whereas it is deemed proper to modify the designation of the value of the tax base of a small business exempt from value added tax;

Be it, therefore, enacted a Royal Decree by the King's Most Excellent Majesty, in exercise of the power under Section 221 of the Constitution of the Kingdom of Thailand and Section 81/1 of the Revenue Code as amended by the Revenue Code Amendment Act (No.30) B.E.2534 where more some provision of which concern the restriction of rights and liberties of a person in which Section 29, Section 35, and Section 48 of the Constitution of the Thailand Kingdom designed that it shall be done by the power under the provision of laws, as follows;

Section 1 This Royal Decree is called the "Royal Decree Issued under the Revenue Code Governing Designation of the Value of the Tax Base of a Small Business Exempt from Value Added Tax (No.432) B.E.2548

Section 2 This Royal Decree shall come into force on the 1st Day of April B.E.2548.

Section 3 There shall be repealed the Royal Decree Issued under the Revenue Code Governing Designation of the Value of the Tax Base of a Small Business Exempt from Value Added Tax (no.354) B.E.2542.

Section 4 The value of the tax base of a small business under Section 81/1 of the Revenue Code shall not exceed 1,800,000 baht per year.

Section 5 The term "year" under Section 4 means-

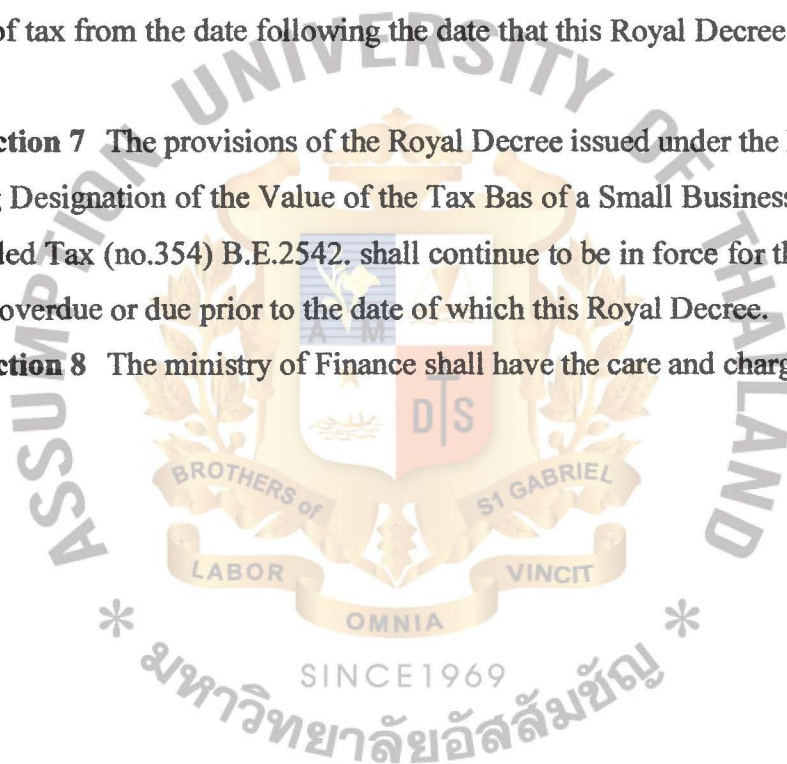
(1) A calendar year, if the supplier is a natural person or a non-juristic of person, except in the case of commencing a business liable to value added tax, a year begins on the day of commencing business and ends on the last day of the calendar year;

(2) An accounting period, if the supplier is a juristic person, exempt in the case of commencing a business, a year begins on the date of commencing business and ends on the last day of the accounting period.

Section 6 The provisions of Section 4 and Section 5 shall come into force for the filing of tax from the date following the date that this Royal Decree has come into force.

Section 7 The provisions of the Royal Decree issued under the Revenue Code Governing Designation of the Value of the Tax Bas of a Small Business Exempt from Value Added Tax (no.354) B.E.2542. shall continue to be in force for the value added tax that is overdue or due prior to the date of which this Royal Decree.

Section 8 The ministry of Finance shall have the care and charge of the Royal Decree.



Appendix C

THE EC SIXTH VAT DIRECTIVE

Article 26a

Special arrangements applicable to second-hand goods, works of art, collectors' items and antiques

A. Definitions

For the purposes of this Article, and without prejudice to other Community provisions:

- (a) work of art shall mean the objects referred to in (a) of annex I.
However, Member States shall have the option of not considering as 'work of art' the items mentioned in the final three indents in (a) in Annex I;
- (b) collectors items shall mean the objects referred to in (b) of Annex I;
- (c) antiques shall mean the objects referred to in (c) of Annex I;
- (d) second-hand goods shall mean tangible movable property that is suitable for further use as it is or after repair, other than works of art, collectors' items or antiques and other than precious metals or precious stones as defined by the Member States;
- (e) taxable dealer shall mean a taxable person who, in the course of his economic activity, purchases or acquires for the purposes of his undertaking, or imports with a view to resale, second-hand goods and/or works of art, collectors' items or antiques, whether that taxable person is acting for himself or on behalf of another person pursuant to a contract under which commission is payable on purchase or sale;
- (f) organizer of a sale by public auction shall mean any taxable person who in the course of his economic activity offers goods for sale by public auction with a view to handing them over to the highest bidder;

(g) principal of an organizer of a sale by public auction shall mean any person who transmits goods to an organizer of a sale by public auction under a contract under which commission is payable on a sale subject to the following provisions:

- the organizer of the sale by public auction offers the goods for sale in his own name but on behalf of his principal,
- the organizer of the sale by public auction hands over the goods, in his own name but on behalf of his principal, to the highest bidder at the public auction.

B. Special arrangements for taxable dealers

1. In respect of supplies of second-hand goods, works of art, collectors' items and antiques effected by taxable dealers, Member States shall apply special arrangements for taxing the profit margin made by the taxable dealer, in accordance with following provisions

2. The supplier of goods referred to in paragraph 1 shall be supplies, by a taxable dealer, of second-hand goods, works of art collectors' item or antiques supplied to him within the Community:

- by a non-taxable person, or by another taxable person in so far as the supply of goods by that other taxable person qualifies for the exemption provided for in Article 24 and involves capital assets,
- by another taxable dealer, in so far as the supply of goods by that other taxable dealer was subject to value added tax in accordance with these special arrangements.

3. The taxable amount of the supplies of goods referred to in paragraph 2 shall be the profit margin made by the taxable dealer, less the amount of value added tax relating to the profit margin. That profit margin shall be equal to the difference between the selling price charged by the taxable dealer for the goods and the purchase price.

For the purposes of this paragraph, the following definitions shall apply:

- selling price shall mean everything which constitutes the consideration, which has been, or is to be, obtained by the taxable dealer from the purchaser or a third party, including subsidies directly linked to that transaction, taxes, duties, levies and charges and incidental expenses such as commission, packaging, transport and insurance costs charged by the taxable dealer to the purchaser but excluding the amounts referred to in Article 11 (A) (3).
- Purchase price shall mean everything which constitutes the consideration defined in the first indent, obtained, or to be obtained, from the taxable dealer by his supplier.



Appendix D

THE VAT ACT 1994

50A Margin schemes

50A(1) The Treasury may by order provide, in relation to any such description of supplies to which this section applies as may be specified in the order, for a taxable person to be entitled to opt that, where he makes supplies of that description, VAT is to be charged by reference to the profit margin on the supplies, instead of by reference to their value.

50A(2) This section applies to the following supplies, that is to say-

- (a) supplies of works of art, antiques or collector's items;
- (b) supplies of motor vehicles;
- (c) supplies of second-hand goods; and
- (d) any supplies of goods through a person who acts as an agent, but in his own name, in relation to the supply.

50A(3) An option for the purposes of an order under this section shall be exercisable, and may be withdrawn, in such manner as may be required by such an order.

50A(4) Subject to subsection (7) below, the **profit margin on a supply** to which this section applies shall be taken, for the purposes of an order under this section to be equal to the amount (if any) by which the price at which the person making the supply obtained the goods in question is exceeded by the price at which he supplies them.

50A(5) For the purposes of this section the price at which a person has obtained any goods and the price at which he supplies them shall each be calculated in accordance with the provision stipulating the extent to which any VAT charged on a supply,

acquisition or importation of any goods is to be treated as included in the price at which those goods have been obtained or are supplied.

50A(6) An order under this section may provide that the consideration for any services supplied in connection with a supply of goods by a person who acts as an agent, but in his own name, in relation to the supply of the goods is to be treated for the purposes of any such order as an amount to be taken into account in computing the profit margin on the supply of the goods, instead of being separately chargeable to VAT as comprised in the value of the services supplied.

50A(7) An order under this section may provide for the total profit margin on all the goods of a particular description supplied by a person in any prescribed accounting period to be calculated by-

- (a) aggregating all the prices at which that person obtained goods of that description in that period together with any amount carried forward to that period in pursuance of paragraph(d) below;
- (b) aggregating all the prices at which he supplies goods of that description in that period;
- (c) treating the total profit margin on goods supplies in that period as being equal to the amount (if any) by which, for that period, the aggregate calculated in pursuance of paragraph (a) above is exceeded by the aggregate calculated in pursuance of paragraph (b) above; and
- (d) treating any amount by which, for that period, the aggregate calculated in pursuance of paragraph (b) above is exceeded by the aggregate calculated in pursuance of paragraph (a) above as an amount to be carried forward to the following prescribed accounting period so as to be included, for the period to which it is carried forward, in any aggregate falling to be calculated in pursuance of paragraph (a) above.

50A(8) An order under this section may-

- (a) make different provision for different cases; and

- (b) make provisions of the order, be given by the Commissioners with respect to any matter to which the order relates.



Appendix E

THE GST ACT

Section 23 Relief on supply of certain secondhand goods

(1) The Minister may by regulations make provision for securing a reduction of the tax chargeable on the supply of goods of such descriptions as may be specified in the regulations in cases where no tax was chargeable on a previous supply of the goods and such other conditions are satisfied as may be specified in the regulations or as may be imposed by the Comptroller.

(2) Tax chargeable on the supply of goods referred to in subsection (1) shall (unless otherwise provided in regulations made under this section) be reduced to the tax charged as if the supply of such goods was for a consideration equal to the excess of A - B,

where A is the consideration for which the goods are supplied; and

B is the consideration for which the goods were acquired,

and accordingly where there is no excess, the tax shall not be charged.

(3) Regulations made under this section may include provisions -

- (a) for giving relief from the tax chargeable on the importation of goods of the description specified in the regulations; and
- (b) for securing a similar reduction where no tax was chargeable on the importation of goods of that description as where no tax was chargeable on a previous supply of the goods.

(4) Regulations made under this section may extend to cases where the previous supply or the importation took place before tax was chargeable on any supply or importation.

(5) This section shall, with the necessary modifications, apply in relation to cases where consequential relief from tax was given on a previous supply by regulations made under section 19 (14) but the relief did not extend to the whole amount of the tax.

(6) Regulations made under this section may make different provisions for goods of different descriptions and for different circumstances.

(7) In this section, references to a supply on which no tax was chargeable include references to a transaction treated by virtue of an order under section 10 (3) as neither a supply of goods nor a supply of services.

(8) This section shall not apply to -

- (a) a supply which is a letting on hire;
- (b) a supply if an invoice or similar document showing an amount as being tax or as being attributable to tax is issued in respect of the supply; and
- (c) any supply by a taxable person where he fails to keep such records and accounts as the Comptroller may in writing specify or to comply with such conditions as the Comptroller may impose.

Appendix F

THIRD SCHEDULE OF THE GST ACT

(Paragraph 14)

14. Motor vehicles

Where a taxable person makes a supply (other than a supply to which section 23 applies) of any used motor vehicle which was registered under the Road Traffic Act (Cap. 276) pursuant to a previous supply of that motor vehicle, the value of the supply shall be reduced by 50%.



